

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,)
Plaintiff,)
v.) No. 3:06-CR-21
(PHILLIPS/GUYTON)
TERRY D. JONES,)
Defendant.)

ORDER

On April 25, 2007, the Honorable H. Bruce Guyton, United States Magistrate Judge, filed a 12-page Report and Recommendation (R&R) [Doc. 53] in which he recommended that defendant's motion to suppress evidence [Doc. 30] be denied. This matter is presently before the Court on defendant's timely objection to the R&R [See Doc. 56].

As required by 28 U.S.C. § 636(b)(1), the Court has now undertaken a *de novo* review of those portions of the R&R to which the defendant objects. After doing so, the Court readily concludes that Magistrate Judge Guyton has thoroughly and correctly analyzed the legal issues presented in defendant's motion to suppress. Thus, any further comment by the Court is unnecessary and would be repetitive.

In sum, the Court finds that the officers' stop of defendant, the defendant's arrest on outstanding warrants, the subsequent search of defendant incident to arrest, and the

search of the interior of defendant's vehicle incident to the custodial arrest, was proper based on the totality of the circumstances. Because Officer Bruce Conkey positively identified the defendant, based upon photographs of the defendant, as a wanted fugitive and the driver of the subject vehicle, before initiating officers to approach and stop the vehicle, the officers had at least a reasonable suspicion to seize the vehicle and the defendant.

As the Magistrate Judge properly concluded, the fact that a confidential informant called Officer Conkey and prompted Officer Conkey to recognize and identify the defendant is of little moment. The important consideration is whether Officer Conkey independently recognized and identified the defendant after receiving the call. The record reflects that Officer Conkey relied upon photographs of the defendant, which were recently pulled and viewed prior to the defendant's arrest, to identify the defendant. There is no evidence that Officer Conkey's testimony was contradicted, impeached, or determined not to be credible.

Accordingly, defendant's objection [Doc. 56] is hereby **OVERRULED** in its entirety, whereby the R&R is **ACCEPTED IN WHOLE**. Thus, defendant's motion to suppress evidence [Doc. 30] is hereby **DENIED**.

ENTER:

s/Thomas W. Phillips
UNITED STATES DISTRICT JUDGE